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Kaardal & Associates PC
Attn Ivar M Kaardal
Circle-Suite 250
3500 South First Avenue
Sioux Falls SD 57105-5807

MAILED

JUL 28 2011

In re Application of	:	OFFICE OF PETITIONS
Simmons	:	
Application No. 09/595,473	:	
Patent No. 6,378,463	:	REQUEST FOR MORE INFORMATION
Filed: June 16, 2000	:	
Issue Date: April 30, 2002	:	
Title: INTERACTIVE PET DEVICE	:	

This letter is being mailed in response to a renewed petition pursuant to 37 C.F.R. § 1.378(e) that was filed on July 11, 2011, requesting reconsideration of a prior decision pursuant to 37 C.F.R. § 1.378(b), which refused to accept the delayed payment of a maintenance fee for the above-referenced patent.

The patent issued on April 30, 2002. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on April 30, 2006, with no payment received. Accordingly, the patent expired on April 30, 2006 at midnight.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

- (1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);
- (2) the surcharge set forth in 37 C.F.R. § 1.20(i)(1), and;
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after

the patentee was notified of, or otherwise became aware of, the expiration of the patent - the showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

An original petition pursuant to 37 C.F.R. § 1.378(b) was filed on July 26, 2010, along with the surcharge associated with a petition to accept the late payment of a maintenance fee as unavoidable, along with both the 3½-year and the 7½-year maintenance fees, and a statement of facts.

The original petition pursuant to 37 C.F.R. § 1.378(b) was dismissed via the mailing of a decision on September 7, 2010, which indicated that the first and second requirements of Rule 1.378(b) had been satisfied, and set a two-month period for response.

With this renewed petition, Petitioner has asserted that she did not receive the mailing of September 7, 2010. Petitioner did not include the required \$400 petition fee¹ set forth in 37 C.F.R. § 1.17(h). As such, this submission cannot be processed at this time.

Petitioner must submit the required \$400 in response to this inquiry. Any response to this inquiry must be filed within **ONE MONTH** of the mailing date of this communication. **This time period is not extendable.** After the decision on the response to this request for more information, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Accordingly, it is extremely important that Petitioner supply **any** and **all** relevant information and documentation in order to meet her burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

The decision which follows the submission of the response to this request for more information will be based strictly on the written record.

If on response to this inquiry, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is

¹ See decision on original petition pursuant to 37 C.F.R. § 1.378(b), page 5.

subject to refund following the decision on the response to this inquiry, or after the expiration of the time for responding to this inquiry, if none is filed.

The response to this inquiry should be entitled "Response to Inquiry," and should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail,² hand-delivery,³ or facsimile.⁴ Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.⁵

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions

cc: Francis Simmons
839 N. Sacramento
Chicago, IL 60622

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

4 (571) 273-8300: please note this is a central facsimile number.

5 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>